

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
RICHARD DUCKET and ABIGAIL SMITH,

Plaintiffs,

-against-

THE CITY OF NEW YORK, POLICE DETECTIVE
ALBERTO PIZARRO-Shield No. 4954 and
JOHN DOES-Police Officers as yet unidentified,

Defendants.

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TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

Defendant's address:

THE CITY OF NEW YORK
100 Church Street
New York, New York 10007

POLICE DETECTIVE ALBERTO PIZARRO-
Shield No. 4954
c/o New York City Police Department- 28th
Precinct
2271-89 Frederick Douglas Boulevard
New York, New York 10027

Dated: Brooklyn, New York
March 19, 2020

Index #
Date of filing:

Plaintiffs designate New York
County as the place of trial

Basis of the venue is the Locus
of Occurrence

SUMMONS

Plaintiffs reside at
1600 Sedgwick Avenue, Apt# 2H
Bronx, New York 10453

County of Bronx

Plaintiff's attorneys:

RUBENSTEIN & RYNECKI, ESQS.
16 Court Street, Suite 1717
Brooklyn, New York 11241
(718)522-1020

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK-----X
RICHARD DUCKET and ABIGAIL SMITH,

Index No.:

Plaintiffs,

COMPLAINT

-against-

THE CITY OF NEW YORK, POLICE DETECTIVE
ALBERTO PIZARRO-Shield No. 4954 and
JOHN DOES-Police Officers as yet unidentified,

Defendants.

-----X

Plaintiffs, by their attorneys, RUBENSTEIN & RYNECKI, ESQS., complaining of the defendants herein, upon information and belief, respectfully show to this Court, and allege as follows:

**AS AND FOR A FIRST CAUSE OF ACTION FOR ASSAULT
AND BATTERY ON BEHALF OF RICHARD DUCKET**

1. That at all times hereinafter mentioned, plaintiffs were and still are residents of the County of Bronx, City and State of New York.
2. That all times hereinafter mentioned, the defendant, THE CITY OF NEW YORK, was and still is a municipal corporation, duly organized and existing pursuant to the laws of the State of New York.
3. That the defendant, THE CITY OF NEW YORK, maintains a police force known as the NEW YORK CITY POLICE DEPARTMENT.
4. That prior hereto on July 10, 2019, and within the time prescribed by law, a sworn Notice of Claim stating, among other things, the time when and place where the injuries and damages were sustained, together with plaintiff's demands for adjustment or payment thereof, and that thereafter the CITY OF NEW YORK refused or neglected for more than (30) days and up to the commencement of this action to make any adjustment or payment thereof, was served and that thereafter, and within the time provided by law, this action was commenced.

5. Pursuant to the General Municipal Law, the Statutory 50-H Hearing of the plaintiff was held on March 3, 2020.

6. That on May 25, 2019, and at all times hereinafter mentioned and upon information and belief, the defendant, THE CITY OF NEW YORK, employed POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, as police officers, agents, servants and/or employees.

7. That on May 25, 2019, and at all times hereinafter mentioned and upon information and belief, the plaintiff, RICHARD DUCKET, was lawfully present at or about the intersection of West 113th Street and Lenox Avenue, in the County, City and State of New York.

8. While at the aforementioned location, the plaintiff, RICHARD DUCKET, was approached and assaulted and battered by the defendants, POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified. The assault and battery consisted of the plaintiff being pushed, thrown against a car, chocked and thrown to the ground and then forcefully placed in handcuffs. Thereafter, the plaintiff was taken into police custody and was placed in a police vehicle where he was taken to the 28th Precinct and was placed in a holding cell and received medical treatment from Emergency Medical Services, which then was transported to Harlem Hospital. On May 26, 2019 at approximately 7:30 a.m., the plaintiff taken back to the 28th Precinct where he was held there until 11:30 a.m. Later on that evening at approximately 8:00 p.m., the plaintiff was transferred to New York Central Booking where he was to be arraigned and then released.

9. That on May 25, 2019, and at all times hereinafter mentioned and upon information and belief, the plaintiff, RICHARD DUCKET, was assaulted and battered by the defendants, POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, who were acting within the scope of their employment with the defendant, THE CITY OF NEW YORK, at the aforesaid location.

10. That on May 25, 2019, and at all times hereinafter mentioned and upon information and belief, the aforementioned assault and battery was performed knowingly, intentionally and willfully.

11. That on May 25, 2019, and at all times hereinafter mentioned and upon information and belief, the defendants, POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, who committed the aforementioned assault and battery upon the plaintiff, RICHARD DUCKET, were acting within the scope of their employment with the defendant, THE CITY OF NEW YORK.

12. That on May 25, 2019, and at all times hereinafter mentioned and upon information and belief, the assault and battery on the plaintiff was without probable cause and was not the result of an appropriate arrest.

13. By reason of said assault and battery the plaintiff was caused to suffer severe and serious injuries in and about diverse parts of the person, and suffered great pain, distress, mental shock, mental anguish and psychological trauma and was otherwise injured.

14. By the reason of the foregoing, the plaintiff, RICHARD DUCKET, sustained damages in an amount exceeding the jurisdictional limits of all the lower Courts.

**AS AND FOR A SECOND CAUSE OF ACTION FOR NEGLIGENT
HIRING AND RETENTION ON BEHALF OF RICHARD DUCKET**

15. That at all times hereinafter mentioned, plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this Complaint designated as "1" - "14" herein, as though more fully set forth herein at length.

16. That the defendant, THE CITY OF NEW YORK, did not exercise reasonable care and diligence in the selection, engagement, employment and training of their police officers, agents, servants, and employees and were negligent in the hiring, training and retention of the defendants, POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, who assaulted, battered and

violated the civil rights of the plaintiff, RICHARD DUCKET.

17. That the defendant, THE CITY OF NEW YORK, had prior knowledge of the inappropriate, unlawful, and improper conduct of the defendants, POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, and continued to employ them and allowed them to be in contact with the public at large.

18. By the reason of the foregoing, the plaintiff, RICHARD DUCKET, sustained damages in an amount exceeding the jurisdictional limits of all the lower Courts.

AS AND FOR A THIRD CAUSE OF ACTION FOR FALSE ARREST ON BEHALF OF RICHARD DUCKET

19. That at all times hereinafter mentioned, plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this Complaint designated as "1" - "18" herein, as though more fully set forth herein at length.

20. That on May 25, 2019, and at all times hereinafter mentioned and upon information and belief, defendants, POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, were working within the scope of their employment and authority with the defendant, THE CITY OF NEW YORK, when they arrested and confined the plaintiff, RICHARD DUCKET.

21. That on May 25, 2019, and at all times hereinafter mentioned and upon information and belief, the arrest and confinement was without probable cause nor based on reasonable grounds and not founded upon an arrest warrant.

22. That as a result of the aforesaid false arrest and confinement, plaintiff, RICHARD DUCKET, sustained serious permanent personal injuries along with humiliation, shame, indignity, damage to reputation and credit and suffered emotional and physical distress, emotional distress and injuries.

23. By the reason of the foregoing, the plaintiff, RICHARD DUCKET, sustained damages in an amount exceeding the jurisdictional limits of all the lower Courts.

**AS AND FOR A FOURTH CAUSE OF ACTION FOR FALSE
IMPRISONMENT ON BEHALF OF RICHARD DUCKET**

24. That at all times hereinafter mentioned, plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this Complaint designated as "1" - "23" herein, as though more fully set forth herein at length.

25. That on May 25, 2019, and at all times hereinafter mentioned and upon information and belief, defendants, POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, were acting within the scope of their employment when they, without justification and without probable cause, imprisoned the plaintiff.

26. That the defendants, POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, while acting within the scope of their employment, intentionally confined the plaintiff against his will and said confinement was not privileged.

27. By the reason of the foregoing, the plaintiff, RICHARD DUCKET, sustained damages in an amount exceeding the jurisdictional limits of all the lower Courts.

**AS AND FOR A FIFTH CAUSE OF ACTION FOR INTENTIONAL
AND NEGLIGENT INFILCTION OF EMOTIONAL
DISTRESS ON BEHALF OF RICHARD DUCKET**

28. That at all times hereinafter mentioned, plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this Complaint designated as "1" - "27" herein, as though more fully set forth herein at length.

29. That the defendant, THE CITY OF NEW YORK, including but not limited to POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, acted intentionally, recklessly and with utter disregard to the consequences of their actions and caused severe emotional distress to the plaintiff through their actions.

30. Said actions exceeded all reasonable bounds of decency, were outrageous and shocking and resulted in severe emotional distress to the plaintiff, RICHARD DUCKET.

31. That as a result of said intentional and negligent acts, the plaintiff, RICHARD DUCKET, became sick, sore, lame and disabled, received severe and serious injuries in and about diverse parts of his person and suffered great physical pain, distress, mental shock, mental anguish and psychological trauma and was otherwise injured.

32. By reason of the foregoing, the plaintiff, RICHARD DUCKET, sustained damages in an amount exceeding the jurisdictional limits of all the lower Courts.

AS AND FOR A SIXTH CAUSE OF ACTION FOR MALICIOUS PROSECUTION ON BEHALF OF RICHARD DUCKET

33. That at all times hereinafter mentioned, plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this Complaint designated as "1" - "32" herein, as though more fully set forth herein at length.

34. That on May 25, 2019, and at all times hereinafter mentioned and upon information and belief, defendants, POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, within the scope of their employment, without justification, without probable cause, created and submitted an erroneous police report in an effort to cover up the aforesaid and initiate a prosecution in bad faith.

35. That on May 25, 2019, and at all times hereinafter mentioned and upon information and belief, defendants, POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, were acting within the scope of their employment, maliciously prosecuted the plaintiff, RICHARD DUCKET.

36. That on May 25, 2019, and at all times hereinafter mentioned and upon information and belief, as a result of the aforesaid malicious prosecution, plaintiff sustained serious, permanent, personal injuries along with humiliation, shame, indignity, damage to reputation and credit, legal fees, loss of employment opportunities and suffered emotional and physical distress and injury.

37. By reason of the foregoing, plaintiff, RICHARD DUCKET, sustained damages in an amount exceeding the jurisdictional limits of all the lower Courts.

**AS AND FOR A SEVENTH CAUSE OF ACTION FOR CIVIL
RIGHTS VIOLATION ON BEHALF OF RICHARD DUCKET**

38. That at all times hereinafter mentioned, plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this Complaint designated as "1" - "37" herein, as though more fully set forth herein at length.

39. The defendant, THE CITY OF NEW YORK, through policies, practices and customs, directly caused the constitutional violation suffered by plaintiff, RICHARD DUCKET.

40. The defendant, THE CITY OF NEW YORK, through its police department, has had and still has hiring practices that it knows will lead to the hiring of the police officers, including but not limited to POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, lacking the intellectual capacity and moral fortitude to discharge their duties in accordance with the constitution and is indifferent to the consequences.

41. The defendant, THE CITY OF NEW YORK, through its police department, has *de facto quota* policy that encourages unlawful stops, unlawful searches, false arrests, the fabrication of evidence and perjury.

42. The defendant, THE CITY OF NEW YORK, at all relevant times, was, upon information and belief, aware that these individual defendants, including but not limited to POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, routinely commit constitutional violations such as those at issue here and has failed to change its policies, practices and customs to stop this behavior.

43. The defendant, THE CITY OF NEW YORK, at all relevant times, was aware that these individual defendants, including but not limited to POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, are unfit officers who have previously committed the acts alleged herein and/or have a propensity for unconstitutional conduct.

44. As a direct and proximate result of this unlawful conduct, the plaintiff, RICHARD DUCKET, sustained the damages hereinbefore alleged.

**AS AND FOR AN EIGHTH CAUSE OF ACTION FOR
PUNITIVE DAMAGES ON BEHALF OF RICHARD DUCKET**

45. That at all times hereinafter mentioned, plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this Complaint designated as "1" - "44" herein, as though more fully set forth herein at length.

46. The actions of the defendants herein-above alleged, were malicious, willful and grossly negligent.

47. That the defendant, THE CITY OF NEW YORK, authorized, permitted and ratified the unlawful and negligent acts of their agents, servants and/or employees, including but not limited to POLICE DETECTIVE ALBERTO PIZARRO-Shield No. 4954 and JOHN DOES-Police Officers as yet unidentified, herein-above alleged.

48. By the reason of the foregoing, the plaintiff, RICHARD DUCKET, sustained damages in an amount exceeding the jurisdictional limits of all the lower Courts.

**AS AND FOR A NINTH CAUSE OF ACTION FOR
LOSS OF SERVICES ON BEHALF OF ABIGAIL SMITH**

49. That at all times hereinafter mentioned, plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this Complaint designated as "1" - "48" herein, as though more fully set forth herein at length.

50. That at all times hereinafter mentioned, plaintiff, ABIGAIL SMITH, was the lawful spouse of the plaintiff, RICHARD DUCKET, and as such said plaintiff, ABIGAIL SMITH, was entitled to the society, services and consortium of the said plaintiff, RICHARD DUCKET.

51. By reason of the aforementioned negligence of the defendants, the plaintiff, ABIGAIL SMITH, was deprived of the society, services and consortium of her spouse, plaintiff, RICHARD DUCKET, and shall forever be deprived of said society, services and consortium.

52. That by reason of the foregoing negligence on the part of the defendants, the plaintiff, ABIGAIL SMITH, sustained damages in an amount exceeding the jurisdictional limits of all the lower Courts.

WHEREFORE, plaintiff, RICHARD DUCKET, demands judgment both compensatory and exemplary in an amount exceeding the jurisdictional limits of all lower Courts on the **First Cause of Action**; plaintiff, RICHARD DUCKET, demands judgment both compensatory and exemplary in an amount exceeding the jurisdictional limits of all lower Courts on the **Second Cause of Action**; plaintiff, RICHARD DUCKET, demands judgment both compensatory and exemplary in an amount exceeding the jurisdictional limits of all lower Courts on the **Third Cause of Action**; plaintiff, RICHARD DUCKET, demands judgment both compensatory and exemplary in an amount exceeding the jurisdictional limits of all lower Courts on the **Fourth Cause of Action**; plaintiff, RICHARD DUCKET, demands judgment both compensatory and exemplary in an amount exceeding the jurisdictional limits of all lower Courts on the **Fifth Cause of Action**; plaintiff, RICHARD DUCKET, demands judgment both compensatory and exemplary in an amount exceeding the jurisdictional limits of all lower Courts on the **Sixth Cause of Action**; plaintiff, RICHARD DUCKET, demands judgment both compensatory and exemplary in an amount exceeding the jurisdictional limits of all lower Courts on the **Seventh Cause of Action**; plaintiff, RICHARD DUCKET, demands judgment both compensatory and exemplary in an amount exceeding the jurisdictional limits of all lower Courts on the **Eighth Cause of Action**; ABIGAIL SMITH, demands judgment both compensatory and exemplary in an amount exceeding

the jurisdictional limits of all lower Courts on the **Ninth Cause of Action**; together with attorneys' fees, and the costs and disbursements of this action.

DATED: Brooklyn, New York
March 19, 2020

[Handwritten signature]
Yours, etc.,

SCOTT E. RYNECKI, ESQ.
RUBENSTEIN & RYNECKI, ESQS.
Attorneys for Plaintiffs
RICHARD DUCKET
ABIGAIL SMITH
16 Court Street Suite 1717
Brooklyn, New York 11241
(718) 522-1020
File No.: 19RD05-25

ATTORNEY'S VERIFICATION BY AFFIRMATION

SCOTT E. RYNECKI, ESQ., an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am a member at RUBENSTEIN & RYNECKI, ESQS., attorneys of record for the Plaintiff/Plaintiffs, I have read the annexed

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and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

The reason I make the foregoing affirmation instead of the Plaintiff/Plaintiffs is because the Plaintiff/Plaintiffs is/are not presently in the County wherein the attorneys for the Plaintiff/Plaintiffs maintain their offices.

Dated: Brooklyn, New York
March 19, 2020



SCOTT E. RYNECKI, ESQ. .